



## DEPARTMENT OF COMMERCE

### International Trade Administration

A-533-901

### Organic Soybean Meal from India: Final Affirmative Determination of Sales at Less Than Fair Value

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

SUMMARY: The Department of Commerce (Commerce) determines that organic soybean meal from India is being, or is likely to be, sold in the United States at less than fair value (LTFV).

DATES: Applicable [Insert date of publication in the *Federal Register*].

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-4261.

### SUPPLEMENTARY INFORMATION:

#### Background

On November 2, 2021, Commerce published the *Preliminary Determination* in this investigation.<sup>1</sup> A summary of the events that occurred since Commerce published the *Preliminary Determination*, as well as a full discussion of the issues raised by parties for this final determination, may be found in the Issues and Decision Memorandum.<sup>2</sup>

#### Period of Investigation

The period of investigation is January 1, 2020, through December 31, 2020.

#### Scope of the Investigation

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<sup>1</sup> See *Organic Soybean Meal from India: Preliminary Affirmative Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Extension of Provisional Measures*, 86 FR 60443 (November 2, 2021) (*Preliminary Determination*), and accompanying Preliminary Decision Memorandum.

<sup>2</sup> See Memorandum, “Decision Memorandum for the Final Determination in the Less-Than-Fair-Value Investigation of Organic Soybean Meal from India,” dated concurrently with, and hereby adopted by, this notice (Issues and Decision Memorandum).

The product covered by this investigation is organic soybean meal from India. For a complete description of the scope of this investigation, *see* Appendix I.

#### Scope Comments

No interested party commented on the scope of the investigation as it appeared in the *Preliminary Determination*. Therefore, no changes were made to the scope of the investigation.

#### Analysis of Comments Received

All issues raised in the case briefs and rebuttal briefs submitted by interested parties in this proceeding are discussed in the Issues and Decision Memorandum. A list of the issues raised by parties and responded to by Commerce in the Issues and Decision Memorandum is attached to this notice as Appendix II. The Issues and Decision Memorandum is a public document and is available electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly at <https://access.trade.gov/public/FRNoticesListLayout.aspx>.

#### Verification

Commerce was unable to conduct on-site verification of the information relied upon in making its final determination in this investigation. However, we took additional steps in lieu of an on-site verification to verify the information relied upon in making this final determination, in accordance with section 782(i) of the Tariff Act of 1930, as amended (the Act).<sup>3</sup>

#### Changes Since the *Preliminary Determination*

Based on our analysis of the comments received and additional information obtained since our preliminary findings, we made certain changes to the margin calculations for Bergwerff Organic India Private Limited (Bergwerff), the sole cooperative respondent in this investigation,

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<sup>3</sup> See Commerce's Letter, "Organic Soybean Meal from India Antidumping Duty Investigation: Questionnaire in Lieu of Verification," dated January 7, 2022; *see also* Bergwerff's Letter, "Organic Soybean Meal from India: In Lieu of Onsite Verification Questionnaire Response," dated January 19, 2022.

after the *Preliminary Determination*. For a discussion of these changes, *see* the Issues and Decision Memorandum.

#### All-Others Rate

Section 735(c)(5)(A) of the Act provides that the estimated weighted-average dumping margin for all other producers and exporters not individually investigated shall be equal to the weighted average of the estimated weighted-average dumping margins established for individually investigated exporters and producers, excluding any margins that are zero or *de minimis* or any margins determined entirely under section 776 of the Act. Commerce calculated an individual estimated weighted average dumping margin for Bergwerff, the only individually examined exporter/producer in this investigation. Because the only individually calculated dumping margin is not zero, *de minimis*, or based entirely on facts otherwise available, the estimated weighted-average dumping margin calculated for Bergwerff is the margin assigned to all other producers and exporters, pursuant to section 735(c)(5)(A) of the Act.

#### Final Determination

The estimated weighted-average dumping margins are as follows:

<b>Exporter/Producer</b>	<b>Estimated Weighted Average Dumping Margin (percent)</b>	<b>Cash Deposit Rate (Adjusted for Subsidy Offset(s)) (percent)</b>
Bergwerff Organic Private Limited/Suminter India Organic Private Limited	3.07	0.00
Shanti Worldwide	18.80*	9.26
Shri Sumati Oil Industries Pvt. Ltd.	18.80*	9.26
Navjyot International Pvt. Ltd.	18.80*	9.26
Ish Agritech Pvt. Ltd.	18.80*	9.26
Satguru Organics Pvt. Ltd.	18.80*	9.26
Radiance Overseas	18.80*	9.26
Swastik Enterprises	18.80*	9.26
Soni Soya Products Limited	18.80*	9.26
Raj Foods International	18.80*	9.26
Vantage Organic Foods Pvt. Ltd.	18.80*	9.26
Shree Bhagwati Oil Mill	18.80*	9.26
Pragati Organics	18.80*	9.26
All Others	3.07	0.00

\*(facts available with an adverse inference)

## Disclosure

Commerce intends to disclose its calculations and analysis performed to interested parties in this final determination within five days of any public announcement or, if there is no public announcement, within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b).

## Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (CBP) to continue the suspension of liquidation of all appropriate entries of organic soybean meal, as described in Appendix I of this notice, which were entered, or withdrawn from warehouse, for consumption on or after November 2, 2022, the date of publication of the *Preliminary Determination* in this investigation in the *Federal Register*.

Pursuant to section 735(c)(1)(B)(ii) of the Act, we will instruct CBP to require a cash deposit equal to the estimated amount by which the normal value exceeds the U.S. price as follows: (1) the cash deposit rate for the respondent listed above will be equal to the respondent-specific estimated weighted-average dumping margin determined in this final determination; (2) if the exporter is not a respondent identified above, but the producer is, then the cash deposit rate will be equal to the respondent-specific estimated weighted-average dumping margin established for that producer of the subject merchandise; and (3) the cash deposit rate for all other producers and exporters will be equal to the all-others estimated weighted-average dumping margin. These suspension of liquidation instructions will remain in effect until further notice.

In the event that a countervailing duty (CVD) order is issued, and suspension of liquidation is resumed in the companion CVD investigation of soybean meal from India, Commerce will instruct CBP to require, for this antidumping duty investigation, cash deposits adjusted by the amount of export subsidies, as appropriate. These adjustments are reflected in the final column of the rate chart, above. Until such suspension of liquidation is resumed in the companion CVD investigation, and so long as suspension of liquidation continues under this

antidumping duty investigation, the cash deposit rates for this antidumping duty investigation will be the rates identified in the estimated weighted-average dumping margin column in the rate chart, above.

#### International Trade Commission Notification

In accordance with section 735(d) of the Act, Commerce will notify the International Trade Commission (ITC) of its final affirmative determination of sales at LTFV. Because the final determination in this proceeding is affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, no later than 45 days after our final determination. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated, and all cash deposits will be refunded. If the ITC determines that material injury or threat of material injury does exist, Commerce will issue an antidumping duty order directing CBP to assess, upon further instruction by Commerce, antidumping duties on all imports of the subject merchandise, entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

#### Notification Regarding Administrative Protective Orders

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a violation subject to sanction.

#### Notification to Interested Parties

This determination is issued and published in accordance with sections 735(d) and 777(i) of the Act and 19 CFR 351.210(c).

Dated: March 17, 2022

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Lisa W. Wang  
Assistant Secretary  
for Enforcement and Compliance

## **Appendix I**

### **Scope of the Investigation**

The merchandise subject to the investigation is certified organic soybean meal. Certified organic soybean meal results from the mechanical pressing of certified organic soybeans into ground products known as soybean cake, soybean chips, or soybean flakes, with or without oil residues. Soybean cake is the product after the extraction of part of the oil from soybeans. Soybean chips and soybean flakes are produced by cracking, heating, and flaking soybeans and reducing the oil content of the conditioned product. “Certified organic soybean meal” is certified by the U.S. Department of Agriculture (USDA) National Organic Program (NOP) or equivalently certified to NOP standards or NOP-equivalent standards under an existing organic equivalency or recognition agreement.

Certified organic soybean meal subject to this investigation has a protein content of 34 percent or higher.

Organic soybean meal that is otherwise subject to this investigation is included when incorporated in admixtures, including but not limited to prepared animal feeds. Only the organic soybean meal component of such admixture is covered by the scope of this investigation. The products covered by this investigation are currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 1208.10.0010 and 2304.00.0000. Certified organic soybean meal may also enter under HTSUS 2309.90.1005, 2309.90.1015, 2309.90.1020, 2309.90.1030, 2309.90.1032, 2309.90.1035, 2309.90.1045, 2309.90.1050, and 2308.00.9890.

The HTSUS subheadings and specifications are provided for convenience and customs purposes; the written description of the scope is dispositive.

## **Appendix II**

### **List of Topics Discussed in the Issues and Decision Memorandum**

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. Use of Facts Otherwise Available and Adverse Inferences: Non-Cooperative and Non-Responsive Companies
- V. Changes Since the Preliminary Determination
- VI. Analysis of Comments
  - Comment 1: Certain Direct Selling Expenses
  - Comment 2: Bergwerff's Affiliation with a Certain Supplier
  - Comment 3: Bergwerff's Affiliation with Supplying Farmers
  - Comment 4: Bergwerff Allegedly Used Non-Organic Soybeans
  - Comment 5: Whether AFA is Warranted for Bergwerff
  - Comment 6: AFA for Non-Cooperative Selected Mandatory Respondents and Affiliates
  - Comment 7: AFA Rate
  - Comment 8: AFA Rate Subsidy Offset
- VII. Recommendation

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